

MANAGED RISK MEDICAL INSURANCE BOARD
Healthy Families Program Advisory Panel Meeting
November 6, 2007
West Sacramento, California

Panel Members: Jack Campana, Karen Lauterbach, Tawnya Soden,
Dr. Paul Morris

MRMIB: Janette Lopez, Adriana Valdez, Theresa Skewes

Introduction

Jack Campana, Healthy Families Program (HFP) Advisory Panel Chair, opened the meeting by introducing himself and asking the Panel members, staff and the audience to introduce themselves.

Mr. Campana announced that many Panel members were not able to make this meeting due to flight delays or prior commitments. Mr. Campana stated that without a quorum, motions will not be made on any matter. He did note the importance of discussing the significant impact to HFP families if insufficient federal funds are allocated by Congress.

Janette Lopez, Deputy Director of the Eligibility, Enrollment and Marketing Division for the MRMIB, announced that five Panel members' terms will end on December 31, 2007. Ms. Lopez encouraged all Panel members interested in re-applying to submit their resumes as soon as possible. MRMIB staff anticipates recommendations to the Board at the December meeting.

Appointment of Panel Members

Mr. Campana announced that 2 Panel members still need to be sworn in.

- Irma Hernandez – Subscriber Representative for a child receiving benefits through the California Children's Services (Sacramento County); and
- Karen Lauterbach – Representative from a Licensed Nonprofit Primary Care Clinic

Ms. Lopez administered the Oath of Office to Karen Lauterbach, the only Panel member who was present at the meeting.

Review of Summary

Due to a quorum not being present, a motion was not made to adopt the August 7, 2007 meeting summary.

SCHIP Reauthorization

Mr. Campana stated that MRMIB held an emergency Board meeting on November 5, 2007 to discuss the President's veto of the SCHIP reauthorization bill and Congress' statement on the issue. Mr. Campana explained that if HFP continues to enroll families at the current rate for the entire fiscal year and covers children as usual, HFP would have to close 3 months early. He discussed other options to stop enrollment immediately or to disenroll children at Annual Eligibility Review. Mr. Campana stated that the Board asked MRMIB staff to develop a plan in case of an emergency situation, not to implement it, just to develop one and have it ready if necessary. He said that a decision for implementation of this plan may be made at the December Board meeting. Mr. Campana noted that a number of children with chronic disease, SED (Seriously Emotionally Disturbed), asthma or diabetes will be negatively impacted by this action.

Ms. Lopez reviewed attachments that explained the SCHIP reauthorizations, the current bills that effect SCHIP and how it impacts California. She discussed the fact sheet, titled "California and SCHIP Federal reauthorization," which was developed because of the inaccurate statements published in various newspapers. Ms. Lopez stated that although the bill was vetoed by the President, a Continuing Resolution was issued through November 16, 2007. This Continuing Resolution gives HFP flat funding, which is funding based on the allocation for federal fiscal year ending 2007. This funding level is insufficient because HFP is currently spending more than is being allocated. Ms. Lopez stated that HFP is currently continuing because HFP had carry over funds from the last fiscal year. She explained that MRMIB has supported the development of emergency regulations because there may not be sufficient federal dollars, but it doesn't mean that MRMIB will initiate disenrollments. Ms. Lopez stated that by law the Board has a fiscal responsibility to administer HFP within the budget, so MRMIB is assessing all alternatives to do that with insufficient funding. She stated that Congress is working on a compromise bill because there is still disagreement between the Bush administration and Congress about what the funding level should be. Ms. Lopez stated that President Bush has assigned administration staff to work closely with Congress, but this has not resulted in a compromise to date. Ms. Lopez stated that something has to happen between now and November 16, 2007 and if it is another Continuing Resolution, MRMIB will be unsure of its length or funding level.

Adoption of Emergency Regulations

Ms. Lopez stated that the Board adopted emergency regulations at the November 5th meeting, which allow the Board to make a finding that it is necessary to establish a waiting list, and if that is insufficient to administer HFP within budgetary constraints, the Board can also make a finding that it is

necessary to disenroll children at Annual Eligibility Review. Ms. Lopez indicated that approximately 66,000 children go through AER each month. Another alternative could be for MRMIB to gamble and hope that sufficient funding will be allocated, yet, if MRMIB did nothing and insufficient funding remains, on June 30, 2008, there would be no money left have to close HFP down completely from July through September 2008.

Mr. Campana stated that this is all in preparation of the December 5th Board meeting where the Board will determine if these emergency actions need to go into effect.

Ms. Lopez stated that on page 3 of the attachment, it shows that \$1.2 billion dollars are needed for the current federal fiscal year for California to keep the program running as it is now.

Ms. Lopez reviewed another attachment titled, *SCHIP Reauthorization: Funding Scenarios for California*, which gives various fiscal scenarios and bills. Ms. Lopez highlighted an assessment done by Peter Harbage, of Harbage Consulting, which shows that if the Board had to initiate disenrollments, the longer it waits to do so, a larger number of children will need to be disenrolled to be within those means.

Ms. Lopez presented the attachment titled, *States with Projected SCHIP Shortfalls in 2008*. She stated that 21 states, including California, will have a shortfall this federal fiscal year if Congress provides flat funding. Ms. Lopez stated that Title XXI funds are used for a variety of other coverage programs such as the CHDP Gateway Program. Ms. Lopez explained that in an emergency situation like this one, the Board must have the ability to make timely decisions as deemed necessary to operate HFP within its budgetary limits. Decisions regarding the other uses of Title XXI funds take much longer and may require engagement from the Legislature and/or Governor.

An audience member commented that California had done a good job enrolling children while other States have done things to keep enrollment or costs low by reducing benefits and/or eligibility, while still insuring way less children than California.

Ms. Lopez stated that every time a barrier is created in a program, it takes years for the program to recover from the negative effect it has on families.

Ms. Lopez stated the Governor and his Administration have been extremely supportive of the SCHIP reauthorization and the Governor has joined many other Governors in sending letters to the President. She said that the Governor's plan under Healthcare Reform is to expand eligibility and to look for ways to make health insurance affordable for children and adults.

An audience member suggested that rather than sitting back and waiting for something to happen, people need to call their own representatives and voice their concern about this matter. She also suggested having employers that have employees enrolled in HFP call to voice their concern as well.

Ms. Lopez explained that many people are mistaken about the income level of children in the program. While HFP covers children up to 250% of the Federal Poverty Level (FPL), the average household in HFP is at 163% of the FPL. Based on an assessment conducted by MRMIB, 71% of HFP enrollment is below 200% FPL which means HFP is reaching the lower income families.

Dr. Morris complimented MRMIB staff on developing the emergency regulations. Mr. Campana complimented MRMIB staff on the recent work with families in the 7 counties affected by the San Diego wildfires and stated that MRMIB allowed families a two month grace period to pay their premiums and submit their Annual Eligibility Review packets.

Tawnya Soden, Subscriber Panel member, mentioned that she is a patient advocate for a rural health center. She stated that many patients depend on these types of programs to provide health care for them, so patients are coming to her with questions about what will happen. Ms. Soden believes that as long as a plan is in place, families will not shy away from HFP.

An audience member commented on the compassion that was shown by the Board members during yesterday's meeting when discussing their loyalty to the subscribers. She said that a Board member stated his concern for continuity of care for the families who have been loyal to the HFP by ensuring they would be re-enrolled into HFP first should the emergency regulations take effect.

Ms. Lopez stated that according to the regulations, MRMIB will first establish a wait list, which means no new enrollments. If additional steps are necessary, the Board may determine it necessary to disenroll subscribers at their Annual Eligibility Review (AER). Ms. Lopez said that it would have to happen in that order and at a public Board setting. She stated that when sufficient funds are obtained, the Executive Director has the authority to stop disenrollments and the wait list and then the children that were disenrolled would be re-enrolled before any new subscribers would be added to the HFP. Ms. Lopez clarified that since Congress must act to provide funding beyond November 16, 2007, it will be clearer at that time if the fiscal shortfall will continue.

Ms. Lopez stated that when the HFP was first implemented the Board had regulatory authority to create a waiting list as determined necessary. She said that when MRMIB was working with the Centers for Medicaid and Medicare Services (CMS) on the parental waiver to cover adults to the program, the CMS stated that the wait list authority needed to be removed from the regulations because children should not be put on a waiting list while adults are receiving

coverage. Ms. Lopez stated that MRMIB is now putting back in what was previously in the regulations before. There are currently 7 or 8 States that already have the authority to implement a wait list.

Ms. Lauterbach strongly recommended disenrolling subscribers the slowest way possible and suggested informing enrollment entities and any other kind of advocacy groups. Ms Lopez stated that the advocate community established weekly, two hour conference calls held every Friday. She said that this is a way for the advocates to stay informed about all current events.

CMS Restrictions on SCHIP

Ms. Lopez reviewed a letter that CMS sent to states which establishes new federal rules for states that have eligibility levels above 250% FPL. Ms. Lopez stated that MRMIB is considered over 250% because of 1) AIM infants in HFP, 2) coverage of pregnant women in AIM, 3) the implementation of AB495 that allows three counties to use SCHIP funds for federally eligible children between 250-300% FPL and 4) the implication that states can no longer use income deductions to reduce the gross income of an applicant below 250% FPL. Ms. Lopez stated the letter adds 11 new rules and states must comply with all 11 to have programs with eligibility up to 300%. One rule requires that a child have been uninsured for one entire year. Another rule increases cost sharing. She said that CMS claims that the reduction in employer sponsored coverage in the states results from a shift of coverage provided by publicly funded programs. Ms. Lopez stated that if there is a decline in employer sponsored coverage, it is due to the insurance being offered to the employee only and not to family members. Ms. Lopez also stated that MRMIB has expressed concern to CMS regarding these new rules because they have not gone through the proper public hearing process.

An audience member asked if a notice will be sent to the families that will be disenrolled in advance. Ms. Lopez stated that MRMIB is required by regulation to give at least a 15 day notice, but MRMIB will attempt to give a 30 day notice.

Ms. Soden asked if CHDP funding will be affected by the disenrollments due to a lack in SCHIP funding. Ms Lopez stated that the wait list and disenrollment alternatives only affect HFP over which the Board has oversight authority. She stated that the CHDP process is established in statute.

Reports of Interest

Ms. Lopez reviewed the 2007 Open Enrollment Summary Report. She stated that families were sent a postcard, which is the Cal-PERS process, notifying them this year of Open Enrollment and giving families a phone number to request a packet. Ms Lopez stated that this process allowed HFP to save money. Most

families did not change plans. In the past, 4% of children voluntarily changed plans. This year it was less than 1.5%.

Ms. Lopez stated that the HFP Enrollment Summary for September now has the language spoken of the household. She gave a review of the remaining reports to the Panel. Ms. Lopez stated that any questions for the Cultural and Linguistic Services in the HFP for October 2007 can be answered at the next meeting when staff from the Benefits and Quality Monitoring Division will be present.

Dr. Morris asked what the penalty would be for states if they do not comply with all of the new rules that CMS stated in their letter. Ms. Lopez stated that California has one year to become compliant with all of the rules and the penalty could be a federal disallowance.

Ms. Lopez encouraged everyone to follow any progress on the HFP website and to attend Board meeting because they are open to the Public or to call the MRMIB office with questions.

It was agreed to schedule the next meeting in January 2008 in place of the February 2008 meeting date in anticipation of the SCHIP issue and its effect on the HFP. Meeting was adjourned.